

evaluate whether nondiscriminatory procedures will in fact be followed in service order processing, installation, maintenance, and repair.

Bell Atlantic's CEI Plan fails to make clear whether Bell Atlantic will follow nondiscriminatory practices with respect to location of the demarcation point. Bell Atlantic should be required to refile its plan and state its specific practices with respect to the demarcation point.

Further, the plan does not state how maintenance and repairs will be handled for the installed base, where no network interface has yet been installed. Even though no interface may have been installed yet, a demarcation point can and should be identified to determine at what point wire maintenance should be charged separately to Bell Atlantic's payphone division as "inside wire" maintenance and at what point wire maintenance may be included as part of the tariffed access service.¹²

Bell Atlantic does not address service ordering procedures involved when a location provider changes a Bell Atlantic payphone division payphone to an IPP payphone, or when an IPP provider payphone becomes a Bell Atlantic payphone division payphone. Bell Atlantic must specify its procedures so that the Commission and interested parties can assess whether service orders are treated equally in this context.

¹² The Commission only grandfathered the location of existing LEC payphones, citing the cost and difficulty of moving existing payphones. See Payphone Order at ¶ 151. The Commission also required LECs to identify whether wire maintenance costs should be allocated to regulated or deregulated operations. Contra BellSouth Reply, filed January 15, 1997 in CC Docket No. 96-128 at 27.

This is especially important where changes of ownership are involved. For example, if a location provider enters into a contract with Bell Atlantic's payphone division, and a contract is in place between an IPP provider and the previous owner, what procedures does Bell Atlantic follow to determine who is the location provider of record for purposes of authorizing and/or ordering service, from Bell Atlantic's perspective as a provider of local exchange service? On the other hand, what procedures are followed if the positions are reversed, and the location provider enters into a contract with an IPP, and a contract is in place between the previous owner and Bell Atlantic's payphone division? Bell Atlantic should specify the procedures it will use to resolve in a nondiscriminatory fashion the conflicts that arise in this context, and to ensure that no undue preferences are given to Bell Atlantic's payphone division.

Bell Atlantic does not specify in detail the procedures to ensure that unfair marketing practices will not be employed by Bell Atlantic and its payphone division when payphones are replaced. For example, Bell Atlantic's service ordering procedures must specify that Bell Atlantic's payphone division is not notified when a new service order is placed for an IPP payphone.

Nor does Bell Atlantic state in its CEI plan whether Bell Atlantic will share personnel between its regulated operations and its payphone division.¹³ To the extent that personnel sharing takes place, especially in the areas of service order processing, installation,

¹³ In fact, for example, Ameritech has committed to not sharing personnel in these areas. See Ameritech CEI Plan at 9.

maintenance and repair, it is far more difficult for the Commission to detect discrimination by a Bell company in favor of its payphone operation.

If personnel are shared between Bell Atlantic payphone operations and Bell Atlantic regulated operations, then the ordering party (the payphone division) could also be the service provider (the LEC) and preferential treatment of Bell Atlantic payphone operations could occur.

Additionally, if Bell Atlantic regulated operations personnel perform functions that involve both receiving installation, maintenance or repair orders and scheduling the installation, maintenance or repair, then the identity of the ordering party is known (i.e., whether the ordering party is the Bell Atlantic payphone division or an IPP) and discrimination could occur when the shared personnel schedules the installation, maintenance or repair service.

III. NUMBERS AND SCREENING CODES

A. Number Assignments

The Payphone Order requires LECs to be nondiscriminatory in assignment of line numbers to payphones. Payphone Order, ¶ 149. Bell Atlantic's plan does not address the assignment of line numbers. Since this issue is specifically addressed in the Payphone Order, Bell Atlantic should be required to revise its plan to indicate what its number assignment policy is, and how the policy is applied to Bell Atlantic's payphone division and other PSPs, with respect to both new numbers and reallocation of existing 8000-9000 service numbers.

B. Screening Codes

Bell Atlantic's CEI Plan fails to provide detail on the types of screening service Bell Atlantic will offer to independent and Bell Atlantic payphones. To the extent Bell Atlantic provides IPP providers using COCOT lines with a "07" code that does not uniquely identify calls as payphone calls, and by contrast, continues to provide its own payphones, which use primarily "coin lines," with a "27" code that does uniquely identify calls as payphone calls, Bell Atlantic's CEI plan is illegally discriminatory.

Prior to the Payphone Order, the Commission ordered LECs to provide an improved version of originating line screening ("OLS") that would enable IXC's to uniquely identify calls originating from IPP providers using "COCOT" lines. Policies and Rules Concerning Operator Service Access and Pay Telephone Compensation, Third Report and Order, FCC 96-131, released April 5, 1996.¹⁴ Traditionally, IPP providers using COCOT lines have been assigned the "07" code, which merely indicates the presence of calling restrictions and can be assigned to a variety of non-payphone lines. LEC payphones, by contrast, benefit from a unique "27" code associated with coin lines.

Most LECs have indicated that they are implementing the Commission's requirement by providing LIDB-based OLS. See OLS Waiver Order, ¶ 3. With LIDB-based OLS, LECs continue to provide independent payphone service providers

¹⁴ However, since the OLS proceeding was initiated prior to enactment of Section 276, the Third Report and Order and subsequent orders have not addressed LECs' obligations under Section 276 and the Payphone Order. See Policies and Rules Concerning Operator Service Access and Pay Telephone Compensation, Petition Pertaining to Originating Line Screening Services, Memorandum Opinion and Order, CCB/CPD File Nos. 96-18 et al., released December 20, 1996, n. 28 ("OLS Waiver Order").

("PSPs") using COCOT lines with the "07" code, which apparently does not uniquely identify calls as payphone calls. To obtain such a unique identification, IXCs must arrange for access to LIDB information, which involves significant expense and/or delay. By contrast, LECs deploying LIDB-based OLS will continue to provide their own payphones, which use primarily "coin lines," with a "27" code that does uniquely identify calls to IXCs as payphone calls without any necessity to obtain additional information from LIDB.

While LIDB-based OLS may satisfy a LEC's pre-Telecommunications Act obligations, its use of a non-unique "07" code for COCOT lines is clearly inferior to the unique "27" code provided to LEC payphones using coin lines, and such inferior treatment is inconsistent with the nondiscrimination requirement of Section 276(a). Moreover, the importance of unique screening codes for payphones has been heightened as a result of the Commission's orders in Docket No. 96-128. The Commission's Order on Reconsideration in the payphone docket confirms that PSPs must ensure transmission of codes that enable IXCs to track calls. Accordingly, LECs are required to provide services "that provide a discrete code to identify payphones that are maintained by non-LEC providers." Reconsideration Order at ¶94.

Having a unique screening code automatically transmitted to the IXC provides Bell company payphones with a tremendous advantage in the collection of per-call payphone compensation. With a unique screening code, the IXC knows immediately that a call is compensable, and should not have to take any further steps in order to calculate the compensation due for each particular ANI invoiced by an IPP provider. If no unique

screening code is transmitted, by contrast, the IXC must check some reliable data base in order to confirm whether the call is from a payphone and therefore, compensable under the Payphone Order. APCC's experience with the data base currently used to administer flat-rate compensation is that the data base information is frequently unreliable and imposes substantial delays and costs in collecting compensation. Frequently, compensation for a given period is never collected on certain payphones because of the difficulties of securing LEC verification. Transmitting a unique screening code for COCOT lines as well as coin lines evidently would make it unnecessary for PSPs to have their collection of compensation continually delayed or denied due to the highly error-prone LEC verification data base currently in use.

Therefore, by transmitting a unique code on all coin lines while transmitting a non-unique code on COCOT lines, Bell Atlantic would be discriminating heavily in favor of its payphone division, providing it with a great advantage in the collection of per-call compensation from IXCs.

Accordingly, the Commission should order Bell Atlantic to clarify that it will provide PSPs using COCOT lines with a screening code that uniquely identifies their lines as payphone lines.¹⁵

¹⁵ Unless IXCs are required to subscribe to a Flex ANI code in all areas, Bell Atlantic must be required to reconfigure the existing codes that are universally available with access services to which IXCs do subscribe, so that a unique code is available for COCOT lines as well as coin lines.

IV. OPERATOR SERVICES

Bell Atlantic's CEI plan does not address the intraLATA operator services offered with its public payphones. Bell Atlantic should be required to specify whether it considers operator services to be part of its deregulated payphone service or whether it considers operator services to be a separable service that is not "ancillary" to its public payphone service.

If operator services are part of Bell Atlantic's deregulated public payphone service, Bell Atlantic should explain whether it is providing such services (1) in the payphone or (2) by reselling network-based operator functions. Further, Bell Atlantic should be required to identify the network functions supporting such services and to indicate how those same functions will be offered to PSPs on a nondiscriminatory basis.

If operator services are a separable regulated service that is not "ancillary" to Bell Atlantic's deregulated payphone service, Bell Atlantic still must demonstrate that it is not subsidizing its payphone operations or discriminating between its payphone operations and other PSPs in the provision of such services. For example, if Bell Atlantic is offering a commission to its payphone operations for presubscribing its payphones to Bell Atlantic's operator service, then at a minimum, such commissions must also be available to independent PSPs on the same terms and conditions.¹⁶ At a minimum, Bell Atlantic must

¹⁶ However, since Bell Atlantic is not using an affiliate for its provision of payphone service, it is questionable whether the Commission's accounting rules allow Bell Atlantic to pay itself a commission for presubscribing its payphones to Bell Atlantic's operator services. Such a transfer of regulated revenues out of regulation may be permissible under the Commission's affiliate transactions rules. However, there is no express permission for such treatment under the cost allocation rules governing nonregulated operations that are not provided through a separate affiliate.

submit a copy of its presubscription contract with its payphone operations and to state that it will offer the same terms and conditions to other IPP providers.

V. CPNI AND SEMI-PUBLIC SERVICE CUSTOMERS

Regarding customer proprietary network information ("CPNI"), Bell Atlantic states generally that it will follow Computer III procedures except where inconsistent with the requirements of Section 222 of the Act and pending the outcome of the FCC's CPNI proceeding. Plan at 10. This approach leaves several questions unanswered regarding how it is applied to protect, under nondiscriminatory conditions, the CPNI of PSPs, as well as the CPNI of Bell Atlantic's existing "semi-public" customers.

Bell Atlantic does not explain to what extent it has modified its procedures to ensure equal -- and equally protected -- access by all payphone service providers ("PSPs") to the customer-proprietary network information ("CPNI") of current customers of tariffed semi-public service. For example, Bell Atlantic does not indicate how it will ensure that its payphone service personnel, who may have direct access to Bell Atlantic's automated service order system (see discussion of service ordering, above) will not also have access to CPNI of PSPs.

Bell Atlantic's CPNI plan also leaves ambiguous the manner in which it will handle information relating to current customers of Bell Atlantic's tariffed semi-public payphone service. With semi-public service, the payphone location provider subscribes to, and is billed for, a tariffed Bell Atlantic service in which Bell Atlantic provides a payphone and charges the location provider for the line and usage of the payphone. Thus, the

location provider is a true customer of Bell Atlantic's tariffed services. The status of semi-public service and its subscribers is scheduled to change on April 15, 1997, because Bell Atlantic may no longer provide the semi-public payphone and the associated payphone-calling services as part of its regulated exchange service operations.

Thus, the CPNI associated with semi-public services is clearly CPNI of the location provider customer and may not be used or disclosed by Bell Atlantic without the customer's affirmative consent except in the provision of the telecommunications service from which the information is derived. 47 U.S.C. § 222(c)(1). Since the existing tariffed semi-public service is necessarily being terminated, subsequent to the termination Bell Atlantic's payphone operation has no more right than any other PSP to access and use the semi-public customer's CPNI.

Bell Atlantic's treatment of semi-public CPNI has major policy implications. The "flash-cut" deregulation of semi-public service will open up a marketplace opportunity for a large group of customers who are willing to pay to have a payphone located on their premises. Customers of tariffed semi-public service are likely to have little or no awareness of the imminent termination of their tariffed service. Since these customers were obtained by Bell Atlantic under anticompetitive, discriminatory conditions in an era of LEC payphone subsidies, there is no legitimate reason why Bell Atlantic's payphone operation should be allowed to exploit its telephone company status to gain preferred access to these customers at the expense of competitors.

Customers of semi-public service should be provided full notice, in a neutral fashion, of the changes that are occurring and be offered a meaningful opportunity to make changes in their payphone services without being subject to service change or installation charges. Bell Atlantic should be required to disclose how it will notify semi-public customers, in a neutral fashion, of the imminent changes and how it will provide those customers an opportunity to authorize disclosure of CPNI on a nondiscriminatory basis to interested payphone providers, including without preference Bell Atlantic's payphone division.

To the extent that Bell Atlantic has, subsequent to enactment of Section 222, allowed its payphone operations to access semi-public customers' CPNI for purposes of marketing nonregulated payphone service to existing semi-public customers, Bell Atlantic has been in violation of the Act. Bell Atlantic should be required to disclose whether such access has occurred. If it has occurred, the Commission must take appropriate remedial measures, including a "fresh look" for any customer that was signed to a contract in violation of Section 222.

VI. OTHER SEMI-PUBLIC SERVICE ISSUES

There are other questions related to semi-public and semi-public-like service that are not addressed at all in Bell Atlantic's CEI plan. For example, to the extent that Bell Atlantic's payphone operation intends to continue offering a semi-public-like payphone service that involves charging location providers for lines and usage on their payphones, Bell Atlantic must disclose how such a service will be supported by Bell Atlantic's network

operations and how charges for the service will be treated on the subscriber's bill. For example, if Bell Atlantic makes network functions available to its payphone operation to track the usage of "semi-public-like" service lines, it must make those same tracking services available in the same manner to independent PSPs. If Bell Atlantic allows its payphone operations to bill for "semi-public-like" service in the local exchange portion of the subscriber's bill, it must make the same billing treatment available for independent PSPs.¹⁷

CONCLUSION

Bell Atlantic's CEI plan fails to provide sufficient specificity and contains outright violations of CEI requirements and the Payphone Order as detailed above. Therefore, Bell Atlantic's CEI plan must be rejected. Bell Atlantic must be required to refile or amend its plan in accordance with the foregoing comments. The Commission should require the refiled plan to be served on commenting parties and to be subject to the same comment period, so that parties have an adequate opportunity to review and comment on the new material submitted.

¹⁷ To the extent that such billing treatment is tariffed or subject to regulation at the state level, it is clearly a service that the Bell companies must provide on a nondiscriminatory basis, even if other nonregulated billing services are not.

CORRECTED COPY

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Certificate of Service

I hereby certify that on February 12, 1997, a copy of the foregoing Errata to the Comments of the American Public Communications Council on Bell Atlantic Telephone Companies' CEI Plan was sent by over-night courier for delivery on February 13, 1997 to:

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